



## **Corporate Social Responsibility under Companies Act – Case against Mandatory Philanthropy**

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### **Introduction**

Recent years have witnessed enhanced interest, academic as well as legal, in the concept of Corporate Social Responsibility (CSR). It has emerged strongly as part of the larger debate over corporate governance, which in its new avatar, emphasizes, theoretically on stakeholder theory.

Significantly, the companies Act 2013 has inserted provisions relating to CSR, in the form of corporate philanthropy. The key drivers behind CSR provision is the growing awareness that it is vital for the business to build trustworthy and sustainable relationships with community. There is hardly any country where CSR is mandatory under the commercial laws and that too in the form of philanthropy. The present article attempts to show that corporate philanthropy, is the improper, though not illegal, way to demand social responsibility on the part of the business. In the process, the article explores the meaning, scope and jurisprudential basis of corporate philanthropy, a form of CSR. The second part of the article examines the context and concept of CSR. The definition of CSR is not very clear and it means different things to different people depending upon the time, space and context. The third part analyses the stakeholder theory, which supplies the key justifications for CSR. There are two things, which are important for the purpose of legal implementation of theory of any nature: One, the identification of stakeholders and their interests, which need legal protection; and two, the form and extent of responsibility of the business towards them. The fourth part assesses the arguments for and against the state regulation of social responsibility/ ethical behaviour through mandatory rules. Fifth part examines the corporate philanthropy as a form of CSR. It involves the examination of the law relating to corporate philanthropy in companies Act too. And finally concluding remarks end the article.

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## Context and Concept of CSR

Defining CSR precisely is beleaguered with complications. It is an umbrella term, which embraces number of perspectives and activities. It has been defined differently by various scholars<sup>1</sup>, institutions<sup>2</sup> and nations depending upon the purpose and context. Definition of CSR range from basic to most demanding, from specific reference to a number of necessary responsibility, to general call for a comprehensive, integrated and committed pursuit of social and environmental sustainability<sup>3</sup>.

Gallie in 1956 proposed a theory of Essentially Contested<sup>4</sup> Concept (ECC) to refer to those concepts, which have perpetual dispute and are inevitably contested. Applying the theory of Gallie, Okoye has classified CSR as an ECC due to the factors like (in)describeability, internal complexity, open character, aggressive and defensive uses<sup>5</sup>.

Being ECC, it is obvious that there is no common established definition of CSR. Even Carroll recognized the difficulty in defining CSR. He pointed out that CSR is an *“eclectic field with loose boundaries, multiple memberships, differing training/ perspectives and multi-disciplinary.”* Votaw, very aptly wraps up the sundry facets of CSR and the dilemma inherent, in the following para:

*“Corporate social Responsibility means something, but not always the same thing to everybody. To some it conveys the idea of legal responsibility or liability; to others, it means socially responsible behaviour in the ethical sense; to still others, the meaning transmitted is that of 'responsible for in the causal mode; many simply equate it with a charitable contribution; some take it to mean socially conscious; many of those who embrace it most fervently see it as a mere synonym for legitimacy in the context of belonging or being proper or valid; a few see a sort of fiduciary duty imposing higher standards of behaviour on businessmen than on citizens at large’.”*

<sup>1</sup> Archie Carroll, “Social Issues in Management Research” 33(1) *Business and Society* 5-25 (1994); E.M. Garriga and D. Mele, “CSR Theories: Mapping the Territory” 53 *Journal of Business Ethics* 51-71 (2004).

<sup>2</sup> Economic Intelligence Unit, “The Importance of CSR” White Paper (2005); World Bank, “Public Sector Roles in Strengthening CSR: Taking Stock, Washington DC (2002); World Business Council for sustainable Development, “CSE: The WBCSD's Journey” (2002)

<sup>3</sup> Guler Aras and Crowther (ed.), *Global Perspectives on Corporate Governance and CSR* (2009)

<sup>4</sup> Also see W.B. Gallie, “Essentially Contested Concepts” 56 *Proceedings of the Aristotelian Society* (1956) reprinted in M. Black (ed.), *The Importance of Language* (1962). Gallie proposed a theory of Essentially Contested Concepts to mean those concepts, which by their very nature, invite perpetual disputes and are inevitably contested.

<sup>5</sup> Adaeze Okoye, “Theorising Corporate Social Responsibility as an Essentially Contested Concept: Is a Definition necessary” 89 *Journal of Business Ethics* 613-627 (2009). Okoye applied the theory of Essentially Contested Concepts proposed by Gallie, who in 1956 prescribed seven criteria for evaluation of contested concept.

<sup>6</sup> Archie Carroll, “Social Issues in Management Research” 33(1) *Business and Society* 5-25 (1994).

<sup>7</sup> D. Votaw, “Genius Became Rare: A Comment on the Doctrine of Social Responsibility Pt I” 15(2) *California Management Review* (1972) 25-31.



Even today, there is no single settled definition of CSR. It means different things to different people. Diversity of issues addressed under CSR umbrella renders it difficult to arrive at a singular universal definition<sup>8</sup>. However a widely accepted definition is given by Commission of European Communities in 2001 as:

*"... A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. Being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing "more" into human capital, the environment and the relations with stakeholders."*

What is clear about the definition is that it does not suggest that pursuit of profits is the most important and over-riding consideration of business. It, instead, suggests investment in stakeholders. What, however, is vague, is the concept of stakeholders and the kind, nature and scope of responsibilities of business towards them. Another thing, which comes out clearly from the above definition and general discussion about the concept, is that, the protection of the interests of stakeholders, other than shareholders, amounts to 'being socially responsible.' Responsibilities towards stakeholders depend upon how the stakeholders and their interests are perceived.

### **Stakeholder theory and CSR**

CSR is a derivative of stakeholder theory of corporate management<sup>9</sup>. This theory has intuitive, management and socio-ethical justification. The theory views corporations as social entities and thus considers pursuing shareholders' interests exclusively, as narrow and unfair. The theory requires the corporations to follow certain principles of good governance such as inclusiveness, responsiveness, transparency and accountability to cater to the expectations and interests of all the stakeholders, shareholders being one amongst them. The stakeholder theory got momentum with the works of R. Edward Freeman who contributed immensely to the development of stakeholder theory as a theory of organizational management and business ethics.

<sup>8</sup>Seema Sharma, "Corporate Social Responsibility in India" 46(4) *Indian Journal of Industrial Relations* 637-649, 638 (April 2011)

<sup>9</sup>Buysee and Verbeke, "Proactive Environment Strategies: A Stakeholder Management Perspective" 24(5) *Strategic Management Journal* (May, 2003) 453-470 is of the opinion that implementation of CSR standards require engagement of stakeholder management principles.



Stakeholder theory is in contrast to shareholders primacy theory, which has its basis in historical events, economics and pragmatism and which due to its strong basis, is upheld by law too. The legitimacy of shareholders' primacy theory is based on the concept of right and freedom to private property. This theory emerged in response to the failure of corporations in USA and played an important role in establishing the capitalist economy during 17<sup>th</sup> to 19<sup>th</sup> century. This theory is still widely prevalent in legal and business circles. SC of Michigan in *Dodge v. Ford Motor* famously held that:

*“A business corporation is organized and carried on primarily for the profit of the stock holders. The powers of the directors are to be employed to that end. The discretion of directors is to be exercised in the choice of means to attain that end and does not extend to a change in the end itself.”*

The debate over shareholders' primacy theory and stakeholder theory has also influenced the nature and scope of CSR.

### **Regulation of Social Responsibility**

For legal implementation of CSR, clarity and certainty are very important. There are many aspects, which require clarity, such as, who the stakeholders are; what are their interests that need protection; what is the responsibility of business towards them; how to discharge that responsibility; how to enforce that responsibility and what may be legal consequences in case of failure and so forth.

How stakeholders and their interests are perceived determines the responsibilities of business towards them. Freeman and Reed defined in 1983 stakeholder as “*any identifiable group or individual, who can affect the achievement of an organization's objectives or is affected by the achievement of an organization's objectives.*”

This is a broad but so far the most effective, conceptualization of stakeholder. The difficulty with the above conceptualization is that it does not particularly suggest who the

<sup>10</sup>Stakeholders are loosely defined as those who affect and are affected by the decisions of the corporations. Stakeholder broadly include employees, suppliers, customers, competitors, local community, creditors/ financiers/ government, political parties, media, trade associations etc.

<sup>11</sup>R. Freeman & D. Reed, “Stockholders and stakeholders: A new perspective on corporate governance 25(2) Californian Management Review (1983) 88–106.

<sup>12</sup>170 N.W. 668 (Mich. 1919)



stakeholders are. There could be so many people or groups, who could be classified as stakeholder within the above definition. Thus, the task of identification of stakeholders becomes important for the application of stakeholders' theory.

The definition, identification and classification of stakeholder affect the perspective about the responsibilities of the business towards stakeholders. Archie Carroll<sup>13</sup> great contributor to the cause of CSR defines,

*“the social responsibility of the business encompasses the economic, legal, ethical and discretionary expectations that society has of organizations at the given point of time.”*

The scholars are generally divided into two groups on the question of 'responsibility of business towards stakeholders: One, those who are argue for larger and broader range of obligations towards society/ stakeholders. The scholars who fall in this category include Andrews, Carroll, Davis and Blomstrom, Epstein and McGuire. Another category comprises of those, who argues that business is obliged only to maximize profits within the boundaries of law with minimum ethical constraints. This school of thought includes scholars such as Levitt and Friedman. This is also the neo-liberal school of thought, according to which, CSR strategies may be justified if they further the interests of companies for the sake of stockholders. A few would argue that stakeholders be classified into internal and external stakeholder and responsibility of the business be confined to the internal stakeholders whereas some, especially those who belong to ethical group argue that such a classification is unethical.

### **Should there be Government Regulation**

Range of possible opinions regarding corporate responsibilities to various stakeholder groups, the issue next arises how to implement and enforce these responsibilities. Essentially it revolves around the question whether these should be left to the market forces or should there be governmental intervention through legislation.

Whilst theoretically, it is essential to have government regulation to ensure ethical treatment of various stakeholder. But to implement this requires clear cut identification of

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<sup>13</sup> Archie B Carroll, “A three Dimensional Conceptual Model of Corporate Performance, “4(4) Academy of Management Review 500 (1979) 497-505.



stakeholder and the nature of interest, which needs protection. It turns out that the only effective way to implement responsibility of business towards stakeholders is to make specific laws for specific category of stakeholder, protection specific or general interest. There are numerous examples of such legislations in all the jurisdictions, which implement social responsibility. The nature and scope of protection, however, may differ from country to country. These laws include laws governing labour or employees, industrial relations, environment, food safety, health issues etc. These laws obtain the justification from the fact that protection of common interests of stakeholder(s) is a 'public good' teemed with 'free rider' problem.

But there are difficulties in the proper enforcement of even these minimally social-obligations-enforcing laws. One, there are chances of 'non-market failure' (government failure)<sup>14</sup>. While laws protecting common interests by state, assumes that people in the government always work in the 'public interest' and are well informed about the implications of particular legislation. But this may not always be the case. As Stigler points out, that government official may allow 'self-interest' to dictate their actions and they might introduce legislation to garner support from particular constituents or benefactors<sup>15</sup>. Even Andersson was of the opinion that government generally respond to political pressures rather than maximize social welfare. He gives an example of environmental pollution, which tends to hurt large unorganized groups, future generations and uninformed, there is likely to be 'government failure' result may result in too little protection of the environment<sup>16</sup>.

Apart from this, those who oppose governmental regulation argue that there are sufficient business drivers, which motivate the companies to do 'right thing' i.e. be socially responsible. These drivers are employees recruitment, motivation and retention, reputation management, risk profile and risk management, competitiveness and market positioning, investor relations and access to capital etc. (This reflects instrumental approach as the factors are tied to maximizing the value of business) The litmus test for any activity or responsibility is whether the performance of that activity or responsibility can reasonably

<sup>14</sup> Craig Deegan and Marita Shelly, "Corporate Social Responsibilities: Alternative perspectives about the need to Legislate" 121 *Journal of Business Ethics* 508(2014) (499-526).

<sup>15</sup> G. J. Stigler, "The theory of economic regulation" 2(1) *Bell Journal of Economics and Management Science*, 2-21 (1971)

<sup>16</sup> B. M. Mitnick, *The Political Economy of Regulation* (1980)



be seen to be contributing to the growth of shareholder value. There are other stimulating factors, which cause companies to be socially responsible. These are 'market for managers' and the 'market for corporate takeovers'.

Having discussed alternative perspectives about the responsibilities of corporations, as well as the need for legislation, we now proceed further to analyse the corporate philanthropy as a form of CSR in general and in India in particular.

## **Corporate Philanthropy as a form of CSR**

### **Corporate Philanthropy as CSR**

Jacque cautions against confusing charity with CSR. According to her, charity cannot be demanded. There cannot be a right to charity. The difference between corporate social responsibility and corporate philanthropy is that the former refers to activities company ought to carry out from a sense of duty or obligation whereas later suggest a voluntary action done out of generosity and beneficence. Though both share some feature as they both create relations of dependence between donor and recipient. Even Carroll was sceptical about terming philanthropic activities as responsibilities. According to him, philanthropic activities are not expected by the society but are merely desired. These are completely discretionary activities on the part of the business.

Since CSR in India, in its present form is more akin to corporate charities, it is relevant to look into the arguments for and against making philanthropy on the part of the companies, mandatory. Theoretically, critics argue that philanthropy distracts companies as well as the attention of the public from the economic role of businesses. On a more practical note, it is shown that CSR is characterized by piecemeal and fragmented reforms and window dressing. Critics argue that philanthropic activities afford companies to green-wash the blue-wash<sup>23</sup>. Radical political economy perspective on CSR is not only sceptical about the effectiveness of CSR but also raise concerns regarding CSR policies being deliberately designed by corporations to deflect attention away from external regulation and control of corporate behaviour<sup>24</sup>.

<sup>17</sup> Supra Note 14 at 508.

<sup>18</sup> Jacquie L'Etang, "Public relations and corporate social responsibility: some issues arising" 13(2) Journal of Business Ethics (1994)111-123.

<sup>19</sup> Id at 117 <sup>20</sup>Ibid. <sup>21</sup>Supra Note 13 at 500.

<sup>22</sup>Peter Utting, "Corporate Responsibility and the Movement of Business" 15(3&4) Development in Practice 383 (June 2005) 375-388.

<sup>23</sup> J. Greer and K. Bruno, "Greenwash: The Reality behind Corporate Environmentalism," Penang: Third World Network (1996).

<sup>24</sup>Greenwash implies ability of companies through PR and minimal adjustments to policy and practice to project an image of reform while changing little in terms of actual corporate conduct.



Another argument is related to 'regulatory' or 'institutional capture.' Historically, corporate philanthropy has been used as a tool to avoid state regulation and expand the reach of corporate world<sup>25</sup>. Since corporate philanthropy gives enormous autonomy to corporation to design and execute the philanthropic programs, it is seen as an attempt to pre-empt the role of governments as a watchdog over the powerful businesses/ corporations. Some go to the extent of arguing that mandatory corporate philanthropy will enable the companies to eventually appropriate role of the state in the domain of welfare<sup>26</sup>. Evidently, the increasing penetration of large corporations in public-policy process through PPPs and other formal and informal consultation and dialogues and other mechanisms has enabled them weaken the attempts to raise standards of regulations<sup>27</sup>.

CSR in the form of corporate philanthropy not only has the tendency to become a tool for public relations functions<sup>28</sup> but has in fact become important to public relations. This is because philanthropic programs afford corporations opportunity to build good will by promoting the benefits of the company to its stakeholders. CSR suitably falls within the public relations portfolio because it affects a company's image and reputation and bring marketing-type benefits to business<sup>29</sup>. CSR may be seen as an investment against the crisis that may occur in future<sup>30</sup>. The argument that CSR programs fetch good will to the business and company is also evident from the way CSR programs are publicized. It raises questions over moral motivation of the programs at the outset. Large scale publicity of CSR programs shows that they are motivated by the self-interest and not by the sense of duty towards society.

<sup>25</sup> Ray Broomhill, "Corporate Social Responsibility: Key issues and Debates" Dunstan Papers Series at8 (1999) 1-52. Ibid.

<sup>26</sup> Mallen Baker, "Are businesses mad dogs that must be controlled?" Available at [http://www.mallenbaker.net/csr/page.php?Story\\_ID=2793](http://www.mallenbaker.net/csr/page.php?Story_ID=2793). Last visited on 18<sup>th</sup> August 2015.

<sup>27</sup> Supra Note 22 at 383.

<sup>28</sup> According to Public Relations Society of America's Task Force on the Stature and Role of public Relations, Public relations may be identified as planned, deliberate communication directed towards target publics with the purpose of achieving an understanding. The key issue in public relations is that of the direction of the communication and the extent to which this informs shapes and manipulates those who receive the communication. Public relations in that sense may be distinguished from propaganda as the former focuses more on two-way communication, while later is one-way communication. 'Public relations' is a means for the public to have its desires and interests felt by the institutions in our society. It shows the mutuality in public relations. The two-way model incorporates feedback into its framework. This is a means to undertake dialogue between an organization and its publics to achieve mutual understanding.

<sup>29</sup> Supra Note 18 at 117

<sup>30</sup> Ibid.



But there are certain arguments in favour of philanthropy too. First and foremost, CSR is a tool to take the wealth to the down of the pyramid. It is based on the premise that wealth generated does not 'trickle down' automatically. As Gray pointed out<sup>31</sup>

*“It is disturbing...to discover that there is no direct evidence to support this precarious construction. The view relies, for its empirical support, on the generalised argument that, for example, we are all better off than we have ever been; that we are all getting better off all the time; and that this increase in wellbeing has coincided with the triumph of international capitalism. Such arguments are, at best, contestable. Whilst for many in the West this statement has a superficial veracity, it ignores the growing gap between rich and poor...and it entirely ignores the increasingly parlous state of the environment.*

This is indeed true. But the mechanism of CSR by way of charity, is effective way to re-distribute wealth, is also contestable. Another arguments is that since government is failing in eradication of poverty or bridging the gap between rich and poor, it makes sense for the companies or private wealth to take up the responsibility. In the process, the companies would be able to garner trust and reciprocity from the society, which is good for the overall business environment of the economy. This argument has as economic angle too. Corporate philanthropy would enable to the companies to avoid inefficiencies caused due to regulatory mechanisms and ever present spectre of government corruption and misfeasance. From Indian perspective, it is argued that since voluntary CSR on the part of the companies has not been successful, the intervention by State is not unreasonable<sup>34</sup>. Moreover, business will get the opportunity to create positive externalities in the form of schools and health care systems.

## CSR in India

Any discussion on CSR for companies in the present context is held with the backdrop of environmental and human-rights related corporate disaster in the past. These incidents

<sup>31</sup>R. Gray, “Social, environmental and sustainability reporting and organisational value creation? Whose value? Whose creation?” Paper presented at European Accounting Association annual congress—Symposium on New Models of Business Reporting, Gothenburg, 18–20 May. (2005)

<sup>32</sup>Tom R Tyler, Peter Dogoey and Heather Smith, “Understanding Why the Justice of Group Procedures Matters” A Test of the Psychological Dynamics of the Group-Value Model” 70 J. Personality & Soc. Psych. 913 (1996) 913-930.

<sup>33</sup>Carolina Van Zile, “India's Mandatory Corporate Social Responsibility Proposal: Creative Capitalism meets Creative Regulation in Global Market” 13 APLPJ 291 (2012) 269-303

<sup>34</sup>Supra Note 33 at 291.



include two major ones that of Bhopal tragedy and Dhabol fiasco, which took place within a span of ten years. These two corporate disaster made foreign companies wary of social and political risks involved with the investment in India on the one hand and put the Indian public on guard on the other hand. Even today people remain suspicious of major foreign investment. These disasters have, however, not prevented many other foreign direct investments such as by majors like IBM, Coca Cola or many automobile companies etc.

In India there are various legislations that relate to a variety of social responsibility-related issues. For instance, laws relating to occupational health and safety, environmental performance, industrial relations, labour laws, competition law and so forth. These legislations apply to all the organizations and not just the corporations. The justification of these legislations is found in socialist orientation of the Indian Polity.

As far as the corporations are concerned, the conduct of corporations and their managers is governed by the companies Act. It contains various provisions which cater to the social responsibility, so to say. The Act along with Securities laws in India provide for disclosure requirements, mainly financial. This is, however, the minimum and limited requirement, which purports to protect the interests of shareholders principally. The disclosure requirements do not make it mandatory to disclose information regarding compliance of environmental laws or other social responsibility-enforcing laws.

Another guiding principle under the corporate laws in India pertains to liability of corporate officers coupled with the jurisprudence developed in the field of directors' duties<sup>35</sup> including 'best interests of the company' and 'proper purpose. These requirements require the companies to consider the needs of a broad group of stakeholders. This is based on the premise that failure to protect the interests of the stakeholders would not be 'in the interests of the company.'

#### *Corporate Philanthropy under the companies Act*

The Companies Act 2013 is the first major attempt at overhauling the fifty years old companies Act. Despite India's left-leaning polity, the Act is extremely economically liberal

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<sup>35</sup>Duties of Directors are now codified in section 166 of the Companies Act, 2013. As an overarching duty, the directors are to keep the interest of company and the stakeholders in consideration while acting on behalf of the company.



and pro-business. It imports legal structures from the west. But the mandatory CSR provisions seem something of a regulatory oddity.<sup>36</sup>

The provisions under the companies Act are essentially in the nature of corporate charity. This is first of its kind in the world. In no other country, philanthropy is made mandatory. This is most blunt and audacious example of state regulation of what should appropriately be left to the discretion of the corporations. In effect, the Indian CSR law is a self-administered tax on business. It essentially focuses not on how companies make profits but on how they spend the profits.

The CSR provision under the Companies Act, 2013 makes it obligatory for the companies to spend 2% of the average net profits made during the last three financial years. The obligation is to be discharged through a CSR committee consisting of 3 or more directors with at least one independent director. Company need to make a CSR policy containing activities to be undertaken based on Schedule VII of the Companies Act. The annual CSR report containing particulars as specified by CSR rules 2014 need to be given out. Even the CSR policy is to be disclosed in the CSR report and on companies' website.

CSR rules mandate that activities must be in the form of projects or programs.

They must be based on the CSR policy and Schedule VII. The activities must be carried on preferably in local region of operations. The companies may undertake the projects or programs either through a not-for-profit of repute or own foundation.

Companies must also establish strong monitoring and reporting mechanism. For this and capacity building of CSR personnel and other administrative expenses, the companies may spend an amount not exceeding 5% of the total CSR expenditure.

The rules also specify what is 'not' counted as CSR. It says, expenses on activities required for any compliance, on activities in pursuance of normal course of business; activities benefitting only the employees of the company and their families; one-off events such as marathons/ awards/ charitable contributions/ advertisements or sponsorships etc.

The CSR under Companies Act and socially responsible behaviour under other laws, may

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<sup>36</sup> *Supra* Note 33 at 291.



still be differentiated on the basis of its substance, scope and extent. For instance, Companies Act is applicable to only one form of business organization i.e. companies, whereas other laws are applicable to all business entities irrespective of the form. Further, companies Act mandates only certain categories of companies (selected on the basis of profitability and turnover) whereas other laws are applicable to all irrespective of the size of their business or profitability. Yet another difference could be the standard of socially responsible behaviour under other laws, which are at times, industry specific (food industry; effluent treatment plant for certain industries) whereas CSR under Companies Act is applicable to all irrespective of the industry.

### **Conclusion and remarks**

CSR provisions under the Companies Act, 2013 are quite audacious. India is perhaps the first and only country that has made corporate social spending/ philanthropy mandatory. According to a rough estimate around 8,000 companies put around \$2bn into the charity to the causes of development and poverty eradication programs.

There are arguments both for and against making corporate philanthropy mandatory. The arguments are not merely theoretical but also show practical difficulties. It is an open secret that there is endemic corruption at every level of the government. Thus, there is real possibility that the funds earmarked for CSR activities may find their way into the wrong hands<sup>37</sup>. There is also a possibility that CSR funds will be diverted to the NGOs, which may belong to politicians or bureaucrats. It may eventually develop a nexus between the corporate and those responsible for governance in such a way where both are benefitted from each other, marginalizing the interests of general public. CSR law in that sense is a step backwards, not a step forwards in the direction of CSR<sup>38</sup>.

Corporate philanthropy is an improper way to make companies socially responsible. This is an arbitrary and lopsided mechanism. On the one hand they will be forced to spend money in social and environmental issues on the other hand, they are probably involved in worsening labour standards, increasing pollution levels, indulge in wastage and depletion

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<sup>37</sup> Mallen Baker, "Should CSR be made compulsory after all?" available at [http://www.mallenbaker.net/csr/page.php?Story\\_ID=2800](http://www.mallenbaker.net/csr/page.php?Story_ID=2800). Last visited on 26<sup>th</sup> July, 2015.

<sup>38</sup> Ibid.



of resources by way of use of non-renewable natural resources, indulging in lobbying<sup>39</sup> for reduction of taxes and relaxed implementation of implementation of environmental and labour welfare legislations. Philanthropic activities have the tendency to not only distract attention away from core business practices<sup>40</sup> and conduct but to actually militate against unreasonable business practices. Addressing CSR through business processes, conduct and behaviour would be much more meaningful than mandatory corporate philanthropy. It is rather counter-productive. Another challenge could come from the implementation side. Without a coercive enforcement mechanism, there is a possibility that the spirit of the law may not be complied with. There is no formal review process in place. Alternatively, it is better to impose tax so that government get funding to reform its infrastructure in a systematic and democratic way.

Lastly, it is difficult to imagine that good and fair society can be created by companies, but certainly, the one cannot be created without them. Their role is important but how they benefit society must be determined by people through government or through other democratic means and not by the business or corporations themselves. They may invest in something which is not particularly the pressing need of people but which may bring desired goodwill for the company. There is natural justice principle, which says "*justice should not only be done but seem to be done.*" In case of corporate philanthropy as a form of CSR, it is not inappropriate to say, "corporations should not merely be seen ethical but be in fact ethical." Corporate philanthropy will make corporations only seem ethical.

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<sup>39</sup>Supra Note 22 at 383.

<sup>40</sup>Supra Note 22 at 383.